

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

U.S. ETHERNET INNOVATIONS, LLC

Plaintiff,

vs.

CIRRUS LOGIC, INC., et al.

Defendants.

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No. 6:12cv366 MHS-JDL

JURY DEMANDED

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Before the Court is Defendant Yamaha Corporation of America's ("Yamaha") Motion to Dismiss Plaintiff's Claims for Indirect Infringement and Willful Infringement (Doc. No. 24) ("Motion"). Plaintiff U.S. Ethernet Innovation LLC ("USEI") filed a Response (Doc. No. 35), to which Yamaha filed a Reply (Doc. No. 38) and USEI filed a Sur-Reply (Doc. No. 43). The briefing on the Motion was completed on September 14, 2012, and on September 21, 2012, USEI filed an amended complaint. (Doc. No. 45). As a result, Yamaha's Motion to dismiss USEI's original complaint is mooted by the amended complaint. Accordingly, the Court **RECOMMENDS DENYING** the Motion without prejudice to re-urging issues on the amended complaint.

CONCLUSION

For all the foregoing reasons, the Court **RECOMMENDS** that Yamaha's Motion be **DENIED** without prejudice to re-urging. Within fourteen (14) days after receipt of the Magistrate Judge's Report, any party may serve and file written objections to the findings and recommendations contained in the Report. A party's failure to file written objections to the

findings, conclusions and recommendations contained in this Report within fourteen (14) days after being served with a copy shall bar that party from *de novo* review by the district judge of those findings, conclusions and recommendations and, except on grounds of plain error, from appellate review of unobjected-to factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United States Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996).

So ORDERED and SIGNED this 5th day of February, 2013.



JOHN D. LOVE
UNITED STATES MAGISTRATE JUDGE